



February 15, 2019

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## HOUSE BILL No. 1402

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DIGEST OF HB 1402 (Updated February 12, 2019 11:41 am - DI 113)

**Citations Affected:** IC 6-9; IC 35-52.

**Synopsis:** Innkeeper's taxes and other local taxes. Renames the convention center operating fund established under the Vanderburgh County innkeeper's statute to the convention center operating, capital improvement, and financial incentive fund (fund). Provides that expenditures from the fund for a convention center in Vanderburgh County may be used only for operating expenses, capital improvements, and financial incentives to attract new businesses. Changes the date on which Vanderburgh County innkeeper's tax revenue deposited in the fund decreases from the amount equal to the revenue generated by a 2% innkeeper's tax rate to the amount equal to the revenue generated by a 1% innkeeper's tax rate. Allows the Clark County and Floyd County councils to adopt substantially similar ordinances to increase the innkeeper's tax rate in both counties from 4% to 6% (these taxes were imposed by state law in 1976). Allows the Allen County council to adopt an ordinance to increase the innkeeper's tax rate in the county from 7% to 8%. (The tax was imposed by state law before 1980). Provides that if an ordinance to increase the innkeeper's tax rate to 8% is in effect in Allen County, the minimum part of the innkeeper's tax proceeds used to provide development and promotion grants within the county increases from 2/7 to 3/8. Allows the fiscal body of White County to levy the county innkeeper's tax on resorts and any other buildings or structures in the county in which lodging is regularly furnished for consideration. Repeals the innkeeper's tax law specific to Howard County. (Howard County elected to impose an innkeeper's tax under the uniform innkeeper's tax  
(Continued next page)

**Effective:** Upon passage; July 1, 2019.

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### Karickhoff, GiaQuinta

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January 14, 2019, read first time and referred to Committee on Ways and Means.  
February 14, 2019, amended, reported — Do Pass.

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HB 1402—LS 7557/DI 92



Digest Continued

law beginning in 2014.) Provides that the maximum innkeeper's tax rate for Howard County under the uniform innkeeper's tax law is 8% on the gross income derived from lodging income. (Current law authorizes a maximum tax rate of 5% under the uniform innkeeper's tax law.) Authorizes Brown County to impose a \$1 admissions tax upon admissions to the indoor performing arts center. Specifies how the revenue may be used. Permits the county to enter into an operating lease with the convention and visitors commission and a contract with a nonprofit organization to operate the indoor performing arts center. Authorizes the fiscal body of the city of Attica (in Fountain County) to impose a food and beverage tax. Authorizes the town of Danville to impose a food and beverage tax. Authorizes the city of Greenwood to impose a food and beverage tax. Authorizes the town of Whitestown to impose a food and beverage tax.

**HB 1402—LS 7557/DI 92**



February 15, 2019

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

## HOUSE BILL No. 1402

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A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 6-9-2.5-1, AS AMENDED BY P.L.119-2012,  
2 SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2019]: Sec. 1. This chapter applies to a **Vanderburgh** County.  
4 **having a population of more than one hundred seventy-five thousand**  
5 **(175,000) but less than one hundred eighty-five thousand (185,000).**  
6 SECTION 2. IC 6-9-2.5-1.1 IS ADDED TO THE INDIANA CODE  
7 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
8 1, 2019]: **Sec. 1.1. The following definitions apply throughout this**  
9 **chapter:**  
10 (1) **"County"** refers to the county specified in section 1 of this  
11 **chapter.**  
12 (2) **"New business"** means a business entity, organization, or  
13 **association that:**  
14 (A) **reasonably establishes an intent to have at least two**  
15 **hundred (200) patrons to rent rooms, lodgings, or**  
16 **accommodations for periods of less than thirty (30) days in**  
17 **any commercial hotel, motel, inn, tourist camp, or tourist**

HB 1402—LS 7557/DI 92



- 1           cabin that is located in the county; and  
 2           **(B) has not received a financial incentive from the county**  
 3           **during the immediately preceding five (5) calendar years.**  
 4           **(3) "Operating expenses" means expenses incurred in the**  
 5           **ordinary course of business operations. The term does not**  
 6           **include expenditures:**  
 7           **(A) for constructing, repairing, or maintaining public**  
 8           **streets or sidewalks; or**  
 9           **(B) for a person (as defined in IC 6-2.5-1-3) or a**  
 10           **governmental entity to provide security for a convention**  
 11           **held at a convention center in the county.**

12           SECTION 3. IC 6-9-2.5-7.5, AS AMENDED BY P.L.190-2014,  
 13           SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14           JULY 1, 2019]: Sec. 7.5. (a) The county treasurer shall establish a  
 15           tourism capital improvement fund.

16           (b) The county treasurer shall deposit money in the tourism capital  
 17           improvement fund as follows:

18           (1) Before January 1, ~~2020~~, **2026**, the county treasurer shall  
 19           deposit in the tourism capital improvement fund the amount of  
 20           money received under section 6 of this chapter that is generated  
 21           by a three and one-half percent (3.5%) rate.

22           (2) After December 31, ~~2019~~, **2025**, the county treasurer shall  
 23           deposit in the tourism capital improvement fund the amount of  
 24           money received under section 6 of this chapter that is generated  
 25           by a four and one-half percent (4.5%) rate.

26           (c) The commission may transfer money in the tourism capital  
 27           improvement fund to:

28           (1) the county government, a city government, or a separate body  
 29           corporate and politic in a county described in section 1 of this  
 30           chapter; or

31           (2) any Indiana nonprofit corporation;

32           for the purpose of making capital improvements in the county that  
 33           promote conventions, tourism, or recreation. The commission may  
 34           transfer money under this section only after approving the transfer.  
 35           Transfers shall be made quarterly or less frequently under this section.

36           SECTION 4. IC 6-9-2.5-7.7, AS AMENDED BY P.L.190-2014,  
 37           SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 38           JULY 1, 2019]: Sec. 7.7. **(a) As used in this section, "fund" refers to**  
 39           **the convention center operating, capital improvement, and**  
 40           **financial incentive fund established under subsection (b).**

41           ~~(a)~~ **(b)** The county treasurer shall establish a convention center  
 42           operating, **capital improvement, and financial incentive** fund.



1           ~~(b)~~ **(c)** Before January 1, ~~2020~~, **2026**, the county treasurer shall  
 2 deposit in the ~~convention center operating~~ fund the amount of money  
 3 received under section 6 of this chapter that is generated by a two  
 4 percent (2%) rate. ~~Money in the fund must be expended for the~~  
 5 ~~operating expenses of a convention center.~~

6           ~~(c)~~ **(d)** After December 31, ~~2019~~, **2025**, the county treasurer shall  
 7 deposit in the ~~convention center operating~~ fund the amount of money  
 8 received under section 6 of this chapter that is generated by a one  
 9 percent (1%) rate. ~~Money in the fund must be expended for the~~  
 10 ~~operating expenses of a convention center with the unused balance~~  
 11 ~~transferred on January 1 of each year to the tourism capital~~  
 12 ~~improvement fund.~~

13           **(e) Money in the fund may be expended only for the following:**

14           **(1) Operating expenses of a convention center located in the**  
 15 **county.**

16           **(2) Capital improvements to a convention center located in the**  
 17 **county.**

18           **(3) Financial incentives to attract, promote, or encourage new**  
 19 **business conventions, trade shows, or special events held at a**  
 20 **convention center located in the county.**

21           **(f) A financial incentive described in subsection (e)(3) may not**  
 22 **be distributed to a new business for at least thirty (30) days after**  
 23 **the conclusion of a convention, trade show, or special event that is**  
 24 **held by the new business at a convention center located in the**  
 25 **county.**

26           SECTION 5. IC 6-9-3-4, AS AMENDED BY P.L.175-2018,  
 27 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 28 JULY 1, 2019]: Sec. 4. (a) In counties to which this chapter applies,  
 29 there shall be levied each year a tax on every person engaged in the  
 30 business of renting or furnishing, for periods of less than thirty (30)  
 31 days, any room or rooms or lodgings or accommodations in any  
 32 commercial hotel, motel, inn, tourist camp, or tourist cabin. However,  
 33 this tax does not apply to the renting or furnishing of rooms, lodgings,  
 34 or accommodations to a person for a period of thirty (30) days or more.

35           **(b) ~~Such~~ The tax shall be at the rate of four percent (4%) on the**  
 36 **gross retail income derived from lodging income only and shall be in**  
 37 **addition to the state gross retail tax imposed on such persons by**  
 38 **IC 6-2.5. The tax rate may be increased to not more than six**  
 39 **percent (6%) by the adoption of substantially similar ordinances**  
 40 **by the county fiscal body of each of the counties to which this**  
 41 **chapter applies.**

42           (c) The county fiscal body may adopt an ordinance to require that



1 the tax shall be paid monthly to the county treasurer. If such an  
 2 ordinance is adopted, the tax shall be paid to the county treasurer not  
 3 more than twenty (20) days after the end of the month the tax is  
 4 collected. If such an ordinance is not adopted, the tax shall be imposed,  
 5 paid, and collected in exactly the same manner as the state gross retail  
 6 tax is imposed, paid, and collected pursuant to IC 6-2.5.

7 (d) All of the provisions of IC 6-2.5 relating to rights, duties,  
 8 liabilities, procedures, penalties, definitions, exemptions, and  
 9 administration shall be applicable to the imposition and administration  
 10 of the tax imposed by this section except to the extent such provisions  
 11 are in conflict or inconsistent with the specific provisions of this  
 12 chapter or the requirements of the county treasurer. Specifically, and  
 13 not in limitation of the foregoing sentence, the terms "person" and  
 14 "gross retail income" shall have the same meaning in this section as  
 15 they have in IC 6-2.5.

16 (e) If the tax is paid to the department of state revenue, the returns  
 17 to be filed for the payment of the tax under this section may be either  
 18 a separate return or may be combined with the return filed for the  
 19 payment of the state gross retail tax as the department of state revenue  
 20 may by rule determine.

21 (f) If the tax is paid to the department of state revenue, the amounts  
 22 received from such tax shall be paid monthly by the treasurer of state  
 23 to the county treasurer upon warrants issued by the auditor of state.

24 SECTION 6. IC 6-9-9-3, AS AMENDED BY P.L.224-2007,  
 25 SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 26 JULY 1, 2019]: Sec. 3. (a) **Except as provided in subsection (b)**, the  
 27 tax imposed by section 2 of this chapter ~~shall be~~ **is imposed** at the rate  
 28 of seven percent (7%) on the gross income derived from lodging  
 29 income only.

30 **(b) The county fiscal body may adopt an ordinance to increase**  
 31 **the tax rate to eight percent (8%).**

32 ~~(b) (c) At least two-sevenths (2/7) of~~ **The capital improvement**  
 33 **board of managers shall make grants to the convention and visitor**  
 34 **bureau in the county from** the tax proceeds paid to the capital  
 35 improvement board of managers under this chapter. ~~must be used to~~  
 36 ~~provide~~ **A grant made to the convention and visitor bureau in the**  
 37 **county under this subsection is to be used solely for the**  
 38 **development and promotion of the tourism and convention**  
 39 **industry within the county. The amount of the grants to the**  
 40 **convention and visitor bureau in the county to be used solely for the**  
 41 **purpose of the development and promotion of the tourism and**  
 42 **convention industry within the county under this subsection must**



1 **equal or exceed:**

2 **(1) two-sevenths (2/7) of the tax proceeds paid to the capital**  
 3 **improvement board of managers under this chapter, while an**  
 4 **ordinance described in subsection (b) is not in effect in the**  
 5 **county; or**

6 **(2) three-eighths (3/8) of the tax proceeds paid to the capital**  
 7 **improvement board of managers under this chapter, while an**  
 8 **ordinance described in subsection (b) is in effect in the county.**

9 ~~(c)~~ **(d)** The capital improvement board of managers may establish  
 10 budgetary requirements for the convention and visitors bureau. If the  
 11 convention and visitors bureau fails to conform, the board may elect to  
 12 suspend funding until the bureau complies.

13 SECTION 7. IC 6-9-10.5-6, AS AMENDED BY P.L.175-2018,  
 14 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2019]: Sec. 6. (a) The fiscal body of a county may levy a tax  
 16 on every person engaged in the business of renting or furnishing, for  
 17 periods of less than thirty (30) days, any room or rooms, lodgings, or  
 18 accommodations in any:

- 19 (1) hotel;  
 20 (2) motel;  
 21 (3) inn;  
 22 (4) tourist cabin; ~~or~~  
 23 (5) campground space; ~~or~~  
 24 **(6) resort;**

25 ~~located in the county in White County in which lodging is regularly~~  
 26 **furnished for consideration.**

27 (b) The tax may not exceed the rate of five percent (5%) on the  
 28 gross retail income derived from lodging income only and is in addition  
 29 to the state gross retail tax imposed under IC 6-2.5.

30 (c) The county fiscal body may adopt an ordinance to require that  
 31 the tax shall be paid monthly to the county treasurer. If such an  
 32 ordinance is adopted, the tax shall be paid to the county treasurer not  
 33 more than twenty (20) days after the end of the month the tax is  
 34 collected. If such an ordinance is not adopted, the tax shall be imposed,  
 35 paid, and collected in exactly the same manner as the state gross retail  
 36 tax is imposed, paid, and collected under IC 6-2.5.

37 (d) All of the provisions of IC 6-2.5 relating to rights, duties,  
 38 liabilities, procedures, penalties, definitions, exemptions, and  
 39 administration are applicable to the imposition and administration of  
 40 the tax imposed under this section except to the extent those provisions  
 41 are in conflict or inconsistent with the specific provisions of this  
 42 chapter or the requirements of the county treasurer. If the tax is paid to



1 the department of state revenue, the return to be filed for the payment  
 2 of the tax under this section may be either a separate return or may be  
 3 combined with the return filed for the payment of the state gross retail  
 4 tax as the department of state revenue may, by rule, determine.

5 (e) If the tax is paid to the department of state revenue, the taxes the  
 6 department of state revenue receives under this section during a month  
 7 shall be paid, by the end of the next succeeding month, to the county  
 8 treasurer upon warrants issued by the auditor of state.

9 SECTION 8. IC 6-9-16 IS REPEALED [EFFECTIVE JULY 1,  
 10 2019]. (Howard County Innkeeper's Tax).

11 SECTION 9. IC 6-9-18-3, AS AMENDED BY P.L.175-2018,  
 12 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 JULY 1, 2019]: Sec. 3. (a) The fiscal body of a county may levy a tax  
 14 on every person engaged in the business of renting or furnishing, for  
 15 periods of less than thirty (30) days, any room or rooms, lodgings, or  
 16 accommodations in any:

- 17 (1) hotel;
- 18 (2) motel;
- 19 (3) boat motel;
- 20 (4) inn;
- 21 (5) college or university memorial union;
- 22 (6) college or university residence hall or dormitory; or
- 23 (7) tourist cabin;

24 located in the county.

25 (b) The tax does not apply to gross income received in a transaction  
 26 in which:

- 27 (1) a student rents lodgings in a college or university residence  
 28 hall while that student participates in a course of study for which  
 29 the student receives college credit from a college or university  
 30 located in the county; or
- 31 (2) a person rents a room, lodging, or accommodations for a  
 32 period of thirty (30) days or more.

33 (c) The tax may not exceed:

- 34 (1) the rate of five percent (5%) **in a county other than a county**  
 35 **subject to subdivision (2); or**
- 36 (2) **after June 30, 2019, the rate of eight percent (8%) in**  
 37 **Howard County.**

38 **The tax is imposed** on the gross retail income derived from lodging  
 39 income only and is in addition to the state gross retail tax imposed  
 40 under IC 6-2.5.

41 (d) The county fiscal body may adopt an ordinance to require that  
 42 the tax shall be paid monthly to the county treasurer. If such an





1 ordinance is adopted, the tax shall be paid to the county treasurer not  
 2 more than twenty (20) days after the end of the month the tax is  
 3 collected. If such an ordinance is not adopted, the tax shall be imposed,  
 4 paid, and collected in exactly the same manner as the state gross retail  
 5 tax is imposed, paid, and collected under IC 6-2.5.

6 (e) All of the provisions of IC 6-2.5 relating to rights, duties,  
 7 liabilities, procedures, penalties, definitions, exemptions, and  
 8 administration are applicable to the imposition and administration of  
 9 the tax imposed under this section except to the extent those provisions  
 10 are in conflict or inconsistent with the specific provisions of this  
 11 chapter or the requirements of the county treasurer. If the tax is paid to  
 12 the department of state revenue, the return to be filed for the payment  
 13 of the tax under this section may be either a separate return or may be  
 14 combined with the return filed for the payment of the state gross retail  
 15 tax as the department of state revenue may, by rule, determine.

16 (f) If the tax is paid to the department of state revenue, the amounts  
 17 received from the tax imposed under this section shall be paid monthly  
 18 by the treasurer of state to the county treasurer upon warrants issued by  
 19 the auditor of state.

20 SECTION 10. IC 6-9-29-5, AS ADDED BY P.L.175-2018,  
 21 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2019]: Sec. 5. (a) As used in this section, "commission" refers  
 23 to the following:

- 24 (1) A board of managers established under:  
 25 (A) IC 6-9-1-2 (St. Joseph County);  
 26 (B) IC 6-9-3-1 (Floyd/Clark County);  
 27 (C) IC 6-9-6-2 (LaPorte County);  
 28 (D) IC 6-9-10-2 (Wayne County); or  
 29 (E) IC 6-9-15-2 (Jefferson County).  
 30 (2) A capital improvement board of managers established under:  
 31 (A) IC 36-10-9-3 (Marion County); or  
 32 (B) IC 36-10-8 (Allen County).  
 33 (3) A commission established under:  
 34 (A) IC 6-9-10.5-9 (White County);  
 35 (B) IC 6-9-18-5 (Uniform County Innkeeper's Tax);  
 36 (C) IC 6-9-19-5 (Elkhart County);  
 37 (D) IC 6-9-32-5 (Jackson County); or  
 38 (E) IC 6-9-37-5 (Hendricks County).  
 39 (4) A convention and visitor bureau:  
 40 (A) established under IC 6-9-2-3 (Lake County); or  
 41 (B) designated as a grant recipient under ~~IC 6-9-9-3(b)~~  
 42 **IC 6-9-9-3(c)** (Allen County).



- 1 (5) A convention and visitor commission established under:  
 2 (A) IC 6-9-2.5-2 (Vanderburgh County);  
 3 (B) IC 6-9-4-2 (Monroe County);  
 4 (C) IC 6-9-7-2 (Tippecanoe County);  
 5 (D) IC 6-9-11-2 (Vigo County);  
 6 (E) IC 6-9-14-2 (Brown County); **or**  
 7 ~~(F) IC 6-9-16-2 (Howard County); or~~  
 8 ~~(G)~~ **(F)** IC 6-9-17-5 (Madison County).  
 9 (6) Any other similar entity that is authorized to administer funds  
 10 received from an innkeeper's tax imposed under this article.  
 11 (b) Each month, the department of state revenue shall also provide  
 12 summary data of the amount of the county's innkeeper's tax collections  
 13 to the commission established for that county.  
 14 (c) This subsection applies only to a county that has adopted an  
 15 ordinance requiring the payment of the innkeeper's tax to the county  
 16 treasurer instead of the department of state revenue. The county  
 17 treasurer shall determine and report to the department of state revenue  
 18 before March 1 of each year the amount of innkeeper's tax collected in  
 19 the county in the preceding calendar year. Not later than April 1 of  
 20 each year, the department of state revenue shall provide summary data  
 21 of the total amount of the county's innkeeper's tax collected in the  
 22 preceding calendar year to the commission established for that county.  
 23 SECTION 11. IC 6-9-46 IS ADDED TO THE INDIANA CODE AS  
 24 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON  
 25 PASSAGE]:  
 26 **Chapter 46. Performing Arts Center Admissions Tax**  
 27 **Sec. 1. This chapter applies only in Brown County.**  
 28 **Sec. 2. As used in this chapter, "indoor performing arts center"**  
 29 **means an indoor facility providing space for entertainment events**  
 30 **that:**  
 31 **(1) has a minimum capacity of at least two thousand (2,000)**  
 32 **patrons; and**  
 33 **(2) is located in a geographic area that has not been annexed**  
 34 **by a city before the adoption of the ordinance under section**  
 35 **3 of this chapter.**  
 36 **Sec. 3. (a) After January 1 but before June 1 of a year, the**  
 37 **county fiscal body may adopt an ordinance to impose an excise tax,**  
 38 **known as the performing arts center admissions tax, for the**  
 39 **privilege of attending any event:**  
 40 **(1) held in an indoor performing arts center; and**  
 41 **(2) to which tickets are offered for sale to the public by:**  
 42 **(A) the box office of the indoor performing arts center; or**



- 1           **(B) an authorized agent of the indoor performing arts**  
 2           **center.**
- 3           **(b) The excise tax imposed under subsection (a) does not apply**  
 4 **to the following:**
- 5           **(1) An event sponsored by an educational institution or an**  
 6 **association representing an educational institution.**
- 7           **(2) An event sponsored by a religious organization.**
- 8           **(3) An event sponsored by an organization that is considered**  
 9 **a charitable organization by the Internal Revenue Service for**  
 10 **federal tax purposes.**
- 11           **(4) An event sponsored by a political organization.**
- 12           **(c) If the fiscal body adopts an ordinance under subsection (a),**  
 13 **the excise tax applies to an event ticket purchased after:**
- 14           **(1) June 30 of the calendar year in which the ordinance is**  
 15 **adopted; or**
- 16           **(2) a later date that is set forth in the ordinance.**
- 17           **(d) If a county fiscal body adopts an ordinance under subsection**  
 18 **(a), it shall immediately send a certified copy of the ordinance to**  
 19 **the commissioner of the department of state revenue.**
- 20           **Sec. 4. The performing arts center admissions tax equals one**  
 21 **dollar (\$1) for each admission described in section 3 of this**  
 22 **chapter.**
- 23           **Sec. 5. (a) Each person who pays a price for admission described**  
 24 **in section 3 of this chapter is liable for the performing arts center**  
 25 **admissions tax imposed under this chapter.**
- 26           **(b) The person who collects the price for admission shall collect**  
 27 **the performing arts center admissions tax imposed under this**  
 28 **chapter at the same time the price for admission is paid. The**  
 29 **person shall collect the tax as an agent of the county that owns the**  
 30 **indoor performing arts center.**
- 31           **Sec. 6. (a) A person who collects a performing arts center**  
 32 **admissions tax under section 5 of this chapter shall remit the**  
 33 **revenue collected monthly to the department of state revenue. The**  
 34 **tax collected from persons paying for admission to a particular**  
 35 **event shall be remitted not more than fifteen (15) days after the**  
 36 **end of the month during which the event occurred.**
- 37           **(b) At the time the tax revenues are remitted, the person shall**  
 38 **report the amount of performing arts center admissions tax**  
 39 **collected on forms prescribed by the department of state revenue.**
- 40           **Sec. 7. The amounts received from the performing arts center**  
 41 **admissions tax shall be paid monthly by the treasurer of state to**  
 42 **the county treasurer upon warrants issued by the auditor of state.**



1           **Sec. 8. (a) If a performing arts center admissions tax is imposed**  
2 **under this chapter, the county legislative body shall establish a**  
3 **county performing arts center admissions tax fund.**

4           **(b) The county treasurer shall deposit money received under**  
5 **section 7 of this chapter in the county performing arts center**  
6 **admissions tax fund.**

7           **(c) Money earned from the investment of money in the fund**  
8 **becomes a part of the fund.**

9           **(d) Money in the fund may be used by the county only with**  
10 **regard to the indoor performing arts center and only for the**  
11 **following:**

12               **(1) Retiring debt related to the indoor performing arts center.**

13               **(2) Paying lease rentals related to the indoor performing arts**  
14 **center.**

15               **(3) Paying for costs to improve or construct infrastructure**  
16 **servicing the indoor performing arts center.**

17               **(4) Paying for costs related to capital repairs and maintenance**  
18 **of the indoor performing arts center.**

19           **Sec. 9. The county may enter into an operating lease with the**  
20 **convention and visitors commission created by IC 6-9-14-2 and a**  
21 **contract with a nonprofit organization to operate the indoor**  
22 **performing arts center.**

23           **Sec. 10. With respect to:**

24               **(1) bonds, leases, or other obligations to which the county has**  
25 **pledged revenues under this chapter; and**

26               **(2) bonds issued by a lessor that are payable from lease**  
27 **rentals;**

28 **the general assembly covenants with the county and the purchasers**  
29 **or owners of the bonds or other obligations described in this**  
30 **section that this chapter will not be repealed or amended in any**  
31 **manner that will adversely affect the collection of the tax imposed**  
32 **under this chapter or the money deposited in the county**  
33 **performing arts center admissions tax fund, as long as the**  
34 **principal of or interest on any bonds, or the lease rentals due under**  
35 **any lease, are unpaid.**

36           **SECTION 12. IC 6-9-49 IS ADDED TO THE INDIANA CODE AS**  
37 **A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY**  
38 **1, 2019]:**

39           **Chapter 49. Attica Food and Beverage Tax**

40           **Sec. 1. This chapter applies to the city of Attica.**

41           **Sec. 2. The definitions in IC 6-9-12-1 apply throughout this**  
42 **chapter.**



1           **Sec. 3. (a) The fiscal body of the city may adopt an ordinance to**  
 2 **impose an excise tax, known as the city food and beverage tax, on**  
 3 **transactions described in section 4 of this chapter. The fiscal body**  
 4 **of the city may adopt an ordinance under this subsection only after**  
 5 **the fiscal body has previously held at least one (1) separate public**  
 6 **hearing in which a discussion of the proposed ordinance to impose**  
 7 **the city food and beverage tax is the only substantive issue on the**  
 8 **agenda for the public hearing.**

9           **(b) If the city fiscal body adopts an ordinance under subsection**  
 10 **(a), the city fiscal body shall immediately send a certified copy of**  
 11 **the ordinance to the department of state revenue.**

12           **(c) If the city fiscal body adopts an ordinance under subsection**  
 13 **(a), the city food and beverage tax applies to transactions that**  
 14 **occur after the later of the following:**

15           **(1) The day specified in the ordinance.**

16           **(2) The last day of the month that succeeds the month in**  
 17 **which the ordinance is adopted.**

18           **Sec. 4. (a) Except as provided in subsection (c), a tax imposed**  
 19 **under section 3 of this chapter applies to a transaction in which**  
 20 **food or beverage is furnished, prepared, or served:**

21           **(1) for consumption at a location or on equipment provided by**  
 22 **a retail merchant;**

23           **(2) in the city; and**

24           **(3) by a retail merchant for consideration.**

25           **(b) Transactions described in subsection (a)(1) include**  
 26 **transactions in which food or beverage is:**

27           **(1) served by a retail merchant off the merchant's premises;**

28           **(2) food sold in a heated state or heated by a retail merchant;**

29           **(3) made of two (2) or more food ingredients, mixed or**  
 30 **combined by a retail merchant for sale as a single item (other**  
 31 **than food that is only cut, repackaged, or pasteurized by the**  
 32 **seller, and eggs, fish, meat, poultry, and foods containing these**  
 33 **raw animal foods requiring cooking by the consumer as**  
 34 **recommended by the federal Food and Drug Administration**  
 35 **in chapter 3, subpart 3-401.11 of its Food Code so as to**  
 36 **prevent food borne illnesses); or**

37           **(4) food sold with eating utensils provided by a retail**  
 38 **merchant, including plates, knives, forks, spoons, glasses,**  
 39 **cups, napkins, or straws (for purposes of this subdivision, a**  
 40 **plate does not include a container or package used to**  
 41 **transport the food).**

42           **(c) The city food and beverage tax does not apply to the**



1 furnishing, preparing, or serving of a food or beverage in a  
 2 transaction that is exempt, or to the extent the transaction is  
 3 exempt, from the state gross retail tax imposed by IC 6-2.5.

4 **Sec. 5. The city food and beverage tax rate:**

5 (1) must be imposed in an increment of twenty-five  
 6 hundredths percent (0.25%); and

7 (2) may not exceed one percent (1%);

8 of the gross retail income received by the merchant from the food  
 9 or beverage transaction described in section 4 of this chapter. For  
 10 purposes of this chapter, the gross retail income received by the  
 11 retail merchant from a transaction does not include the amount of  
 12 tax imposed on the transaction under IC 6-2.5.

13 **Sec. 6. A tax imposed under this chapter shall be imposed, paid,**  
 14 **and collected in the same manner that the state gross retail tax is**  
 15 **imposed, paid, and collected under IC 6-2.5. However, the return**  
 16 **to be filed with the payment of the tax imposed under this chapter**  
 17 **may be made on a separate return or may be combined with the**  
 18 **return filed for the payment of the state gross retail tax, as**  
 19 **prescribed by the department of state revenue.**

20 **Sec. 7. The amounts received from the tax imposed under this**  
 21 **chapter shall be paid monthly by the treasurer of state to the city**  
 22 **fiscal officer upon warrants issued by the auditor of state.**

23 **Sec. 8. (a) If a tax is imposed under section 3 of this chapter by**  
 24 **a city, the city fiscal officer shall establish a food and beverage tax**  
 25 **receipts fund.**

26 **(b) The city fiscal officer shall deposit in the fund all amounts**  
 27 **received under this chapter.**

28 **(c) Money earned from the investment of money in the fund**  
 29 **becomes a part of the fund.**

30 **Sec. 9. Money in the food and beverage tax receipts fund must**  
 31 **be used by the city only for the following purposes:**

32 (1) Revitalization projects in the city, including the  
 33 repurposing of buildings and the city's main street program.

34 (2) The pledge of money under IC 5-1-14-4 for bonds, leases,  
 35 or other obligations incurred for a purpose described in  
 36 subdivision (1).

37 Revenue derived from the imposition of a tax under this chapter  
 38 may be treated by the city as additional revenue for the purpose of  
 39 fixing its budget for the budget year during which the revenues are  
 40 to be distributed to the city.

41 **Sec. 10. With respect to obligations for which a pledge has been**  
 42 **made under section 9 of this chapter, the general assembly**



1 covenants with the holders of the obligations that this chapter will  
 2 not be repealed or amended in a manner that will adversely affect  
 3 the imposition or collection of the tax imposed under this chapter  
 4 if the payment of any of the obligations is outstanding.

5 SECTION 13. IC 6-9-50 IS ADDED TO THE INDIANA CODE AS  
 6 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
 7 1, 2019]:

8 **Chapter 50. Danville Food and Beverage Tax**

9 **Sec. 1. This chapter applies to the town of Danville.**

10 **Sec. 2. The definitions in IC 6-9-12-1 apply throughout this**  
 11 **chapter.**

12 **Sec. 3. (a) The fiscal body of the town may adopt an ordinance**  
 13 **to impose an excise tax, known as the town food and beverage tax,**  
 14 **on transactions described in section 4 of this chapter. The fiscal**  
 15 **body of the town may adopt an ordinance under this subsection**  
 16 **only after the fiscal body has previously held at least one (1)**  
 17 **separate public hearing in which a discussion of the proposed**  
 18 **ordinance to impose the town food and beverage tax is the only**  
 19 **substantive issue on the agenda for the public hearing.**

20 **(b) If the town fiscal body adopts an ordinance under subsection**  
 21 **(a), the town fiscal body shall immediately send a certified copy of**  
 22 **the ordinance to the department of state revenue.**

23 **(c) If the town fiscal body adopts an ordinance under subsection**  
 24 **(a), the town food and beverage tax applies to transactions that**  
 25 **occur after the later of the following:**

26 **(1) The day specified in the ordinance.**

27 **(2) The last day of the month that succeeds the month in**  
 28 **which the ordinance is adopted.**

29 **Sec. 4. (a) Except as provided in subsection (c), a tax imposed**  
 30 **under section 3 of this chapter applies to a transaction in which**  
 31 **food or beverage is furnished, prepared, or served:**

32 **(1) for consumption at a location or on equipment provided by**  
 33 **a retail merchant;**

34 **(2) in the town; and**

35 **(3) by a retail merchant for consideration.**

36 **(b) Transactions described in subsection (a)(1) include**  
 37 **transactions in which food or beverage is:**

38 **(1) served by a retail merchant off the merchant's premises;**

39 **(2) food sold in a heated state or heated by a retail merchant;**

40 **(3) made of two (2) or more food ingredients, mixed or**  
 41 **combined by a retail merchant for sale as a single item (other**  
 42 **than food that is only cut, repackaged, or pasteurized by the**



1 seller, and eggs, fish, meat, poultry, and foods containing these  
 2 raw animal foods requiring cooking by the consumer as  
 3 recommended by the federal Food and Drug Administration  
 4 in chapter 3, subpart 3-401.11 of its Food Code so as to  
 5 prevent food borne illnesses); or  
 6 (4) food sold with eating utensils provided by a retail  
 7 merchant, including plates, knives, forks, spoons, glasses,  
 8 cups, napkins, or straws (for purposes of this subdivision, a  
 9 plate does not include a container or package used to  
 10 transport the food).

11 (c) The town food and beverage tax does not apply to the  
 12 furnishing, preparing, or serving of a food or beverage in a  
 13 transaction that is exempt, or to the extent the transaction is  
 14 exempt, from the state gross retail tax imposed by IC 6-2.5.

15 Sec. 5. The town food and beverage tax rate:

- 16 (1) must be imposed in an increment of twenty-five  
 17 hundredths percent (0.25%); and
- 18 (2) may not exceed one percent (1%);

19 of the gross retail income received by the merchant from the food  
 20 or beverage transaction described in section 4 of this chapter. For  
 21 purposes of this chapter, the gross retail income received by the  
 22 retail merchant from a transaction does not include the amount of  
 23 tax imposed on the transaction under IC 6-2.5 or IC 6-9-35.

24 Sec. 6. A tax imposed under this chapter is imposed, paid, and  
 25 collected in the same manner that the state gross retail tax is  
 26 imposed, paid, and collected under IC 6-2.5. However, the return  
 27 to be filed with the payment of the tax imposed under this chapter  
 28 may be made on a separate return or may be combined with the  
 29 return filed for the payment of the state gross retail tax, as  
 30 prescribed by the department of state revenue.

31 Sec. 7. The amounts received from the tax imposed under this  
 32 chapter shall be paid monthly by the treasurer of state to the town  
 33 fiscal officer upon warrants issued by the auditor of state.

34 Sec. 8. (a) If a tax is imposed under section 3 of this chapter by  
 35 the town, the town fiscal officer shall establish a food and beverage  
 36 tax receipts fund.

37 (b) The town fiscal officer shall deposit in the fund all amounts  
 38 received under this chapter.

39 (c) Money earned from the investment of money in the fund  
 40 becomes a part of the fund.

41 Sec. 9. Money in the food and beverage tax receipts fund must  
 42 be used by the town only for the following purposes:





1 (1) Parks, trails, and sidewalk, street, and parking  
2 improvements to support tourism in the town.

3 (2) For economic development purposes, including the pledge  
4 of money under IC 5-1-14-4 for bonds, leases, or other  
5 obligations for economic development purposes.

6 Revenue derived from the imposition of a tax under this chapter  
7 may be treated by the town as additional revenue for the purpose  
8 of fixing its budget for the budget year during which the revenues  
9 are to be distributed to the town.

10 Sec. 10. With respect to obligations for which a pledge has been  
11 made under section 9 of this chapter, the general assembly  
12 covenants with the holders of the obligations that this chapter will  
13 not be repealed or amended in a manner that will adversely affect  
14 the imposition or collection of the tax imposed under this chapter  
15 if the payment of any of the obligations is outstanding.

16 SECTION 14. IC 6-9-51 IS ADDED TO THE INDIANA CODE AS  
17 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON  
18 PASSAGE]:

19 **Chapter 51. Greenwood Food and Beverage Tax**

20 **Sec. 1. This chapter applies to the city of Greenwood.**

21 **Sec. 2. The definitions in IC 6-9-12-1 apply throughout this  
22 chapter.**

23 **Sec. 3. (a) The fiscal body of the city may adopt an ordinance to  
24 impose an excise tax, known as the city food and beverage tax, on  
25 transactions described in section 4 of this chapter. The fiscal body  
26 of the city may adopt an ordinance under this subsection only after  
27 the fiscal body has previously held at least one (1) separate public  
28 hearing in which a discussion of the proposed ordinance to impose  
29 the city food and beverage tax is the only substantive issue on the  
30 agenda for that public hearing.**

31 **(b) If the city fiscal body adopts an ordinance under subsection  
32 (a), the city fiscal body shall immediately send a certified copy of  
33 the ordinance to the department of state revenue.**

34 **(c) If the city fiscal body adopts an ordinance under subsection  
35 (a), the city food and beverage tax applies to transactions that  
36 occur after the later of the following:**

37 **(1) The day specified in the ordinance.**

38 **(2) The first day of the month following sixty (60) days after  
39 the date on which the ordinance is adopted.**

40 **Sec. 4. (a) Except as provided in subsection (c), a tax imposed  
41 under section 3 of this chapter applies to a transaction in which a  
42 food or beverage is furnished, prepared, or served:**



- 1           (1) for consumption at a location or on equipment provided by
- 2           a retail merchant;
- 3           (2) in the city; and
- 4           (3) by a retail merchant for consideration.

5           (b) Transactions described in subsection (a)(1) include  
6 transactions in which food or beverage is:

- 7           (1) served by a retail merchant off the merchant's premises;
- 8           (2) food sold in a heated state or heated by a retail merchant;
- 9           (3) made of two (2) or more food ingredients, mixed or  
10           combined by a retail merchant for sale as a single item (other  
11           than food that is only cut, repackaged, or pasteurized by the  
12           seller, and eggs, fish, meat, poultry, and foods containing these  
13           raw animal foods requiring cooking by the consumer as  
14           recommended by the federal Food and Drug Administration  
15           in chapter 3, subpart 3-401.11 of its Food Code so as to  
16           prevent food borne illnesses); or
- 17           (4) food sold with eating utensils provided by a retail  
18           merchant, including plates, knives, forks, spoons, glasses,  
19           cups, napkins, or straws (for purposes of this subdivision, a  
20           plate does not include a container or package used to  
21           transport the food).

22           (c) The city food and beverage tax does not apply to the  
23           furnishing, preparing, or serving of a food or beverage in a  
24           transaction that is exempt, or to the extent the transaction is  
25           exempt, from the state gross retail tax imposed by IC 6-2.5.

26           Sec. 5. The city food and beverage tax rate:

- 27           (1) must be imposed in an increment of twenty-five  
28           hundredths percent (0.25%); and
- 29           (2) may not exceed one percent (1%);

30           of the gross retail income received by the merchant from the food  
31           or beverage transaction described in section 4 of this chapter. For  
32           purposes of this chapter, the gross retail income received by the  
33           retail merchant from a transaction does not include the amount of  
34           tax imposed on the transaction under IC 6-2.5.

35           Sec. 6. A tax imposed under this chapter shall be imposed, paid,  
36           and collected in the same manner that the state gross retail tax is  
37           imposed, paid, and collected under IC 6-2.5. However, the return  
38           to be filed with the payment of the tax imposed under this chapter  
39           may be made on a separate return or may be combined with the  
40           return filed for the payment of the state gross retail tax, as  
41           prescribed by the department of state revenue.

42           Sec. 7. The amounts received from the tax imposed under this



1 chapter shall be paid monthly by the treasurer of state to the city  
2 fiscal officer upon warrants issued by the auditor of state.

3 **Sec. 8. (a)** If a tax is imposed under section 3 of this chapter by  
4 the city, the city fiscal officer shall establish a food and beverage  
5 tax receipts fund.

6 **(b)** The city fiscal officer shall deposit in the fund all amounts  
7 received under this chapter.

8 **(c)** Money earned from the investment of money in the fund  
9 becomes a part of the fund.

10 **Sec. 9.** Money in the food and beverage tax receipts fund must  
11 be used by the city for one (1) or more of the following purposes:

12 **(1)** To reduce the city's property tax levy for a particular year  
13 at the discretion of the city, but this use does not reduce the  
14 maximum permissible ad valorem property tax levy under  
15 IC 6-1.1-18.5 for the city.

16 **(2)** For economic development purposes, including the pledge  
17 of money under IC 5-1-14-4 for bonds, leases, or other  
18 obligations for economic development purposes.

19 **(3)** Construction, renovation, improvement, equipping, or  
20 maintenance of city capital improvements.

21 **(4)** Parks and recreation.

22 **(5)** The pledge of money under IC 5-1-14-4 for bonds, leases,  
23 or other obligations incurred for a purpose described in  
24 subdivisions (3) through (4).

25 Revenue derived from the imposition of a tax under this chapter  
26 may be treated by the city as additional revenue for the purpose of  
27 fixing its budget for the budget year during which the revenues are  
28 to be distributed to the city.

29 **Sec. 10.** With respect to obligations for which a pledge has been  
30 made under section 9 of this chapter, the general assembly  
31 covenants with the holders of the obligations that this chapter will  
32 not be repealed or amended in a manner that will adversely affect  
33 the imposition or collection of the tax imposed under this chapter  
34 if the payment of any of the obligations is outstanding.

35 SECTION 15. IC 6-9-52 IS ADDED TO THE INDIANA CODE AS  
36 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON  
37 PASSAGE]:

38 **Chapter 52. Whitestown Food and Beverage Tax**

39 **Sec. 1.** This chapter applies to the town of Whitestown.

40 **Sec. 2.** The definitions in IC 6-9-12-1 apply throughout this  
41 chapter.

42 **Sec. 3. (a)** The fiscal body of the town may adopt an ordinance



1 to impose an excise tax, known as the town food and beverage tax,  
 2 on transactions described in section 4 of this chapter. The fiscal  
 3 body of the town may adopt an ordinance under this subsection  
 4 only after the fiscal body has previously held at least one (1)  
 5 separate public hearing in which a discussion of the proposed  
 6 ordinance to impose the town food and beverage tax is the only  
 7 substantive issue on the agenda for that public hearing.

8 (b) If the town fiscal body adopts an ordinance under subsection  
 9 (a), the town fiscal body shall immediately send a certified copy of  
 10 the ordinance to the department of state revenue.

11 (c) If the town fiscal body adopts an ordinance under subsection  
 12 (a), the town food and beverage tax applies to transactions that  
 13 occur after the later of the following:

14 (1) The day specified in the ordinance.

15 (2) The first day of the month following sixty (60) days after  
 16 the date on which the ordinance is adopted.

17 Sec. 4. (a) Except as provided in subsection (c), a tax imposed  
 18 under section 3 of this chapter applies to a transaction in which a  
 19 food or beverage is furnished, prepared, or served:

20 (1) for consumption at a location or on equipment provided by  
 21 a retail merchant;

22 (2) in the town; and

23 (3) by a retail merchant for consideration.

24 (b) Transactions described in subsection (a)(1) include  
 25 transactions in which food or beverage is:

26 (1) served by a retail merchant off the merchant's premises;

27 (2) food sold in a heated state or heated by a retail merchant;

28 (3) made of two (2) or more food ingredients, mixed or  
 29 combined by a retail merchant for sale as a single item (other  
 30 than food that is only cut, repackaged, or pasteurized by the  
 31 seller, and eggs, fish, meat, poultry, and foods containing these  
 32 raw animal foods requiring cooking by the consumer as  
 33 recommended by the federal Food and Drug Administration  
 34 in chapter 3, subpart 3-401.11 of its Food Code so as to  
 35 prevent food borne illnesses); or

36 (4) food sold with eating utensils provided by a retail  
 37 merchant, including plates, knives, forks, spoons, glasses,  
 38 cups, napkins, or straws (for purposes of this subdivision, a  
 39 plate does not include a container or package used to  
 40 transport the food).

41 (c) The town food and beverage tax does not apply to the  
 42 furnishing, preparing, or serving of a food or beverage in a



1 transaction that is exempt, or to the extent the transaction is  
 2 exempt, from the state gross retail tax imposed by IC 6-2.5.

3 **Sec. 5. The town food and beverage tax rate:**

4 (1) must be imposed in an increment of twenty-five  
 5 hundredths percent (0.25%); and

6 (2) may not exceed one percent (1%);

7 of the gross retail income received by the merchant from the food  
 8 or beverage transaction described in section 4 of this chapter. For  
 9 purposes of this chapter, the gross retail income received by the  
 10 retail merchant from a transaction does not include the amount of  
 11 tax imposed on the transaction under IC 6-2.5.

12 **Sec. 6. A tax imposed under this chapter shall be imposed, paid,**  
 13 **and collected in the same manner that the state gross retail tax is**  
 14 **imposed, paid, and collected under IC 6-2.5. However, the return**  
 15 **to be filed with the payment of the tax imposed under this chapter**  
 16 **may be made on a separate return or may be combined with the**  
 17 **return filed for the payment of the state gross retail tax, as**  
 18 **prescribed by the department of state revenue.**

19 **Sec. 7. The amounts received from the tax imposed under this**  
 20 **chapter shall be paid monthly by the treasurer of state to the town**  
 21 **fiscal officer upon warrants issued by the auditor of state.**

22 **Sec. 8. (a) If a tax is imposed under section 3 of this chapter by**  
 23 **the town, the town fiscal officer shall establish a food and beverage**  
 24 **tax receipts fund.**

25 (b) The town fiscal officer shall deposit in the fund all amounts  
 26 received under this chapter.

27 (c) Money earned from the investment of money in the fund  
 28 becomes a part of the fund.

29 **Sec. 9. Money in the food and beverage tax receipts fund must**  
 30 **be used by the town for one (1) or more of the following purposes:**

31 (1) To reduce the town's property tax levy for a particular  
 32 year at the discretion of the town, but this use does not reduce  
 33 the maximum permissible ad valorem property tax levy under  
 34 IC 6-1.1-18.5 for the town.

35 (2) For economic development purposes, including the pledge  
 36 of money under IC 5-1-14-4 for bonds, leases, or other  
 37 obligations for economic development purposes.

38 (3) Construction, renovation, improvement, equipping, or  
 39 maintenance of town capital improvements.

40 (4) Parks and recreation.

41 (5) The pledge of money under IC 5-1-14-4 for bonds, leases,  
 42 or other obligations incurred for a purpose described in



1 subdivisions (3) through (4).  
2 Revenue derived from the imposition of a tax under this chapter  
3 may be treated by the town as additional revenue for the purpose  
4 of fixing its budget for the budget year during which the revenues  
5 are to be distributed to the town.  
6 Sec. 10. With respect to obligations for which a pledge has been  
7 made under section 9 of this chapter, the general assembly  
8 covenants with the holders of the obligations that this chapter will  
9 not be repealed or amended in a manner that will adversely affect  
10 the imposition or collection of the tax imposed under this chapter  
11 if the payment of any of the obligations is outstanding.  
12 SECTION 16. IC 35-52-6-74 IS REPEALED [EFFECTIVE JULY  
13 1, 2019]. Sec. 74: IC 6-9-16-8 defines a crime concerning innkeeper's  
14 taxes:  
15 SECTION 17. An emergency is declared for this act.



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1402, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-9-2.5-1, AS AMENDED BY P.L.119-2012, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. This chapter applies to a **Vanderburgh** County. ~~having a population of more than one hundred seventy-five thousand (175,000) but less than one hundred eighty-five thousand (185,000).~~

SECTION 2. IC 6-9-2.5-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1.1. The following definitions apply throughout this chapter:**

**(1) "County" refers to the county specified in section 1 of this chapter.**

**(2) "New business" means a business entity, organization, or association that:**

**(A) reasonably establishes an intent to have at least two hundred (200) patrons to rent rooms, lodgings, or accommodations for periods of less than thirty (30) days in any commercial hotel, motel, inn, tourist camp, or tourist cabin that is located in the county; and**

**(B) has not received a financial incentive from the county during the immediately preceding five (5) calendar years.**

**(3) "Operating expenses" means expenses incurred in the ordinary course of business operations. The term does not include expenditures:**

**(A) for constructing, repairing, or maintaining public streets or sidewalks; or**

**(B) for a person (as defined in IC 6-2.5-1-3) or a governmental entity to provide security for a convention held at a convention center in the county.**

SECTION 3. IC 6-9-2.5-7.5, AS AMENDED BY P.L.190-2014, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7.5. (a) The county treasurer shall establish a tourism capital improvement fund.

(b) The county treasurer shall deposit money in the tourism capital improvement fund as follows:

(1) Before January 1, ~~2020~~, **2026**, the county treasurer shall



deposit in the tourism capital improvement fund the amount of money received under section 6 of this chapter that is generated by a three and one-half percent (3.5%) rate.

(2) After December 31, ~~2019~~, **2025**, the county treasurer shall deposit in the tourism capital improvement fund the amount of money received under section 6 of this chapter that is generated by a four and one-half percent (4.5%) rate.

(c) The commission may transfer money in the tourism capital improvement fund to:

(1) the county government, a city government, or a separate body corporate and politic in a county described in section 1 of this chapter; or

(2) any Indiana nonprofit corporation;

for the purpose of making capital improvements in the county that promote conventions, tourism, or recreation. The commission may transfer money under this section only after approving the transfer. Transfers shall be made quarterly or less frequently under this section.

SECTION 4. IC 6-9-2.5-7.7, AS AMENDED BY P.L.190-2014, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7.7. **(a) As used in this section, "fund" refers to the convention center operating, capital improvement, and financial incentive fund established under subsection (b).**

~~(a)~~ **(b)** The county treasurer shall establish a convention center operating, **capital improvement, and financial incentive** fund.

~~(b)~~ **(c)** Before January 1, ~~2020~~, **2026**, the county treasurer shall deposit in the ~~convention center operating~~ fund the amount of money received under section 6 of this chapter that is generated by a two percent (2%) rate. ~~Money in the fund must be expended for the operating expenses of a convention center.~~

~~(c)~~ **(d)** After December 31, ~~2019~~, **2025**, the county treasurer shall deposit in the ~~convention center operating~~ fund the amount of money received under section 6 of this chapter that is generated by a one percent (1%) rate. ~~Money in the fund must be expended for the operating expenses of a convention center with the unused balance transferred on January 1 of each year to the tourism capital improvement fund.~~

**(e) Money in the fund may be expended only for the following:**

**(1) Operating expenses of a convention center located in the county.**

**(2) Capital improvements to a convention center located in the county.**

**(3) Financial incentives to attract, promote, or encourage new**





**business conventions, trade shows, or special events held at a convention center located in the county.**

**(f) A financial incentive described in subsection (e)(3) may not be distributed to a new business for at least thirty (30) days after the conclusion of a convention, trade show, or special event that is held by the new business at a convention center located in the county.**

SECTION 5. IC 6-9-3-4, AS AMENDED BY P.L.175-2018, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) In counties to which this chapter applies, there shall be levied each year a tax on every person engaged in the business of renting or furnishing, for periods of less than thirty (30) days, any room or rooms or lodgings or accommodations in any commercial hotel, motel, inn, tourist camp, or tourist cabin. However, this tax does not apply to the renting or furnishing of rooms, lodgings, or accommodations to a person for a period of thirty (30) days or more.

(b) ~~Such~~ **The tax shall be at the rate of four percent (4%) on the gross retail income derived from lodging income only and shall be in addition to the state gross retail tax imposed on such persons by IC 6-2.5. The tax rate may be increased to not more than six percent (6%) by the adoption of substantially similar ordinances by the county fiscal body of each of the counties to which this chapter applies.**

(c) The county fiscal body may adopt an ordinance to require that the tax shall be paid monthly to the county treasurer. If such an ordinance is adopted, the tax shall be paid to the county treasurer not more than twenty (20) days after the end of the month the tax is collected. If such an ordinance is not adopted, the tax shall be imposed, paid, and collected in exactly the same manner as the state gross retail tax is imposed, paid, and collected pursuant to IC 6-2.5.

(d) All of the provisions of IC 6-2.5 relating to rights, duties, liabilities, procedures, penalties, definitions, exemptions, and administration shall be applicable to the imposition and administration of the tax imposed by this section except to the extent such provisions are in conflict or inconsistent with the specific provisions of this chapter or the requirements of the county treasurer. Specifically, and not in limitation of the foregoing sentence, the terms "person" and "gross retail income" shall have the same meaning in this section as they have in IC 6-2.5.

(e) If the tax is paid to the department of state revenue, the returns to be filed for the payment of the tax under this section may be either a separate return or may be combined with the return filed for the



payment of the state gross retail tax as the department of state revenue may by rule determine.

(f) If the tax is paid to the department of state revenue, the amounts received from such tax shall be paid monthly by the treasurer of state to the county treasurer upon warrants issued by the auditor of state.

SECTION 6. IC 6-9-9-3, AS AMENDED BY P.L.224-2007, SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) **Except as provided in subsection (b)**, the tax imposed by section 2 of this chapter ~~shall be~~ **is imposed** at the rate of seven percent (7%) on the gross income derived from lodging income only.

**(b) The county fiscal body may adopt an ordinance to increase the tax rate to eight percent (8%).**

~~(b) (c) At least two-sevenths (2/7) of~~ **The capital improvement board of managers shall make grants to the convention and visitor bureau in the county from the tax proceeds paid to the capital improvement board of managers under this chapter. ~~must be used to provide~~ A grant made to the convention and visitor bureau in the county under this subsection is to be used solely for the development and promotion of the tourism and convention industry within the county. The amount of the grants to the convention and visitor bureau in the county to be used solely for the purpose of the development and promotion of the tourism and convention industry within the county under this subsection must equal or exceed:**

**(1) two-sevenths (2/7) of the tax proceeds paid to the capital improvement board of managers under this chapter, while an ordinance described in subsection (b) is not in effect in the county; or**

**(2) three-eighths (3/8) of the tax proceeds paid to the capital improvement board of managers under this chapter, while an ordinance described in subsection (b) is in effect in the county.**

~~(c) (d)~~ **The capital improvement board of managers may establish budgetary requirements for the convention and visitors bureau. If the convention and visitors bureau fails to conform, the board may elect to suspend funding until the bureau complies.**

SECTION 7. IC 6-9-10.5-6, AS AMENDED BY P.L.175-2018, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6. (a) The fiscal body of a county may levy a tax on every person engaged in the business of renting or furnishing, for periods of less than thirty (30) days, any room or rooms, lodgings, or accommodations in any:



- (1) hotel;
- (2) motel;
- (3) inn;
- (4) tourist cabin; ~~or~~
- (5) campground space; ~~or~~
- (6) resort;**

~~located in the county in White County in which lodging is regularly furnished for consideration.~~

(b) The tax may not exceed the rate of five percent (5%) on the gross retail income derived from lodging income only and is in addition to the state gross retail tax imposed under IC 6-2.5.

(c) The county fiscal body may adopt an ordinance to require that the tax shall be paid monthly to the county treasurer. If such an ordinance is adopted, the tax shall be paid to the county treasurer not more than twenty (20) days after the end of the month the tax is collected. If such an ordinance is not adopted, the tax shall be imposed, paid, and collected in exactly the same manner as the state gross retail tax is imposed, paid, and collected under IC 6-2.5.

(d) All of the provisions of IC 6-2.5 relating to rights, duties, liabilities, procedures, penalties, definitions, exemptions, and administration are applicable to the imposition and administration of the tax imposed under this section except to the extent those provisions are in conflict or inconsistent with the specific provisions of this chapter or the requirements of the county treasurer. If the tax is paid to the department of state revenue, the return to be filed for the payment of the tax under this section may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax as the department of state revenue may, by rule, determine.

(e) If the tax is paid to the department of state revenue, the taxes the department of state revenue receives under this section during a month shall be paid, by the end of the next succeeding month, to the county treasurer upon warrants issued by the auditor of state."

Page 3, line 16, strike "IC 6-9-9-3(b)" and insert "**IC 6-9-9-3(c)**".

Page 3, between lines 39 and 40, begin a new paragraph and insert:  
 "SECTION 11. IC 6-9-46 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 46. Performing Arts Center Admissions Tax**

**Sec. 1. This chapter applies only in Brown County.**

**Sec. 2. As used in this chapter, "indoor performing arts center" means an indoor facility providing space for entertainment events that:**



- (1) has a minimum capacity of at least two thousand (2,000) patrons; and
- (2) is located in a geographic area that has not been annexed by a city before the adoption of the ordinance under section 3 of this chapter.

**Sec. 3. (a)** After January 1 but before June 1 of a year, the county fiscal body may adopt an ordinance to impose an excise tax, known as the performing arts center admissions tax, for the privilege of attending any event:

- (1) held in an indoor performing arts center; and
- (2) to which tickets are offered for sale to the public by:
  - (A) the box office of the indoor performing arts center; or
  - (B) an authorized agent of the indoor performing arts center.

**(b)** The excise tax imposed under subsection (a) does not apply to the following:

- (1) An event sponsored by an educational institution or an association representing an educational institution.
- (2) An event sponsored by a religious organization.
- (3) An event sponsored by an organization that is considered a charitable organization by the Internal Revenue Service for federal tax purposes.
- (4) An event sponsored by a political organization.

**(c)** If the fiscal body adopts an ordinance under subsection (a), the excise tax applies to an event ticket purchased after:

- (1) June 30 of the calendar year in which the ordinance is adopted; or
- (2) a later date that is set forth in the ordinance.

**(d)** If a county fiscal body adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

**Sec. 4.** The performing arts center admissions tax equals one dollar (\$1) for each admission described in section 3 of this chapter.

**Sec. 5. (a)** Each person who pays a price for admission described in section 3 of this chapter is liable for the performing arts center admissions tax imposed under this chapter.

**(b)** The person who collects the price for admission shall collect the performing arts center admissions tax imposed under this chapter at the same time the price for admission is paid. The person shall collect the tax as an agent of the county that owns the indoor performing arts center.



**Sec. 6. (a)** A person who collects a performing arts center admissions tax under section 5 of this chapter shall remit the revenue collected monthly to the department of state revenue. The tax collected from persons paying for admission to a particular event shall be remitted not more than fifteen (15) days after the end of the month during which the event occurred.

**(b)** At the time the tax revenues are remitted, the person shall report the amount of performing arts center admissions tax collected on forms prescribed by the department of state revenue.

**Sec. 7.** The amounts received from the performing arts center admissions tax shall be paid monthly by the treasurer of state to the county treasurer upon warrants issued by the auditor of state.

**Sec. 8. (a)** If a performing arts center admissions tax is imposed under this chapter, the county legislative body shall establish a county performing arts center admissions tax fund.

**(b)** The county treasurer shall deposit money received under section 7 of this chapter in the county performing arts center admissions tax fund.

**(c)** Money earned from the investment of money in the fund becomes a part of the fund.

**(d)** Money in the fund may be used by the county only with regard to the indoor performing arts center and only for the following:

- (1)** Retiring debt related to the indoor performing arts center.
- (2)** Paying lease rentals related to the indoor performing arts center.
- (3)** Paying for costs to improve or construct infrastructure serving the indoor performing arts center.
- (4)** Paying for costs related to capital repairs and maintenance of the indoor performing arts center.

**Sec. 9.** The county may enter into an operating lease with the convention and visitors commission created by IC 6-9-14-2 and a contract with a nonprofit organization to operate the indoor performing arts center.

**Sec. 10.** With respect to:

- (1)** bonds, leases, or other obligations to which the county has pledged revenues under this chapter; and
- (2)** bonds issued by a lessor that are payable from lease rentals;

the general assembly covenants with the county and the purchasers or owners of the bonds or other obligations described in this section that this chapter will not be repealed or amended in any



manner that will adversely affect the collection of the tax imposed under this chapter or the money deposited in the county performing arts center admissions tax fund, as long as the principal of or interest on any bonds, or the lease rentals due under any lease, are unpaid.

SECTION 12. IC 6-9-49 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

**Chapter 49. Attica Food and Beverage Tax**

**Sec. 1. This chapter applies to the city of Attica.**

**Sec. 2. The definitions in IC 6-9-12-1 apply throughout this chapter.**

**Sec. 3. (a) The fiscal body of the city may adopt an ordinance to impose an excise tax, known as the city food and beverage tax, on transactions described in section 4 of this chapter. The fiscal body of the city may adopt an ordinance under this subsection only after the fiscal body has previously held at least one (1) separate public hearing in which a discussion of the proposed ordinance to impose the city food and beverage tax is the only substantive issue on the agenda for the public hearing.**

**(b) If the city fiscal body adopts an ordinance under subsection (a), the city fiscal body shall immediately send a certified copy of the ordinance to the department of state revenue.**

**(c) If the city fiscal body adopts an ordinance under subsection (a), the city food and beverage tax applies to transactions that occur after the later of the following:**

- (1) The day specified in the ordinance.**
- (2) The last day of the month that succeeds the month in which the ordinance is adopted.**

**Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to a transaction in which food or beverage is furnished, prepared, or served:**

- (1) for consumption at a location or on equipment provided by a retail merchant;**
- (2) in the city; and**
- (3) by a retail merchant for consideration.**

**(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:**

- (1) served by a retail merchant off the merchant's premises;**
- (2) food sold in a heated state or heated by a retail merchant;**
- (3) made of two (2) or more food ingredients, mixed or combined by a retail merchant for sale as a single item (other**



than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or

(4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or package used to transport the food).

(c) The city food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

**Sec. 5. The city food and beverage tax rate:**

(1) must be imposed in an increment of twenty-five hundredths percent (0.25%); and

(2) may not exceed one percent (1%);

of the gross retail income received by the merchant from the food or beverage transaction described in section 4 of this chapter. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

**Sec. 6. A tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed with the payment of the tax imposed under this chapter may be made on a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.**

**Sec. 7. The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the city fiscal officer upon warrants issued by the auditor of state.**

**Sec. 8. (a) If a tax is imposed under section 3 of this chapter by a city, the city fiscal officer shall establish a food and beverage tax receipts fund.**

**(b) The city fiscal officer shall deposit in the fund all amounts received under this chapter.**

**(c) Money earned from the investment of money in the fund becomes a part of the fund.**

**Sec. 9. Money in the food and beverage tax receipts fund must**



be used by the city only for the following purposes:

- (1) Revitalization projects in the city, including the repurposing of buildings and the city's main street program.
- (2) The pledge of money under IC 5-1-14-4 for bonds, leases, or other obligations incurred for a purpose described in subdivision (1).

Revenue derived from the imposition of a tax under this chapter may be treated by the city as additional revenue for the purpose of fixing its budget for the budget year during which the revenues are to be distributed to the city.

**Sec. 10.** With respect to obligations for which a pledge has been made under section 9 of this chapter, the general assembly covenants with the holders of the obligations that this chapter will not be repealed or amended in a manner that will adversely affect the imposition or collection of the tax imposed under this chapter if the payment of any of the obligations is outstanding.

SECTION 13. IC 6-9-50 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

**Chapter 50. Danville Food and Beverage Tax**

**Sec. 1.** This chapter applies to the town of Danville.

**Sec. 2.** The definitions in IC 6-9-12-1 apply throughout this chapter.

**Sec. 3. (a)** The fiscal body of the town may adopt an ordinance to impose an excise tax, known as the town food and beverage tax, on transactions described in section 4 of this chapter. The fiscal body of the town may adopt an ordinance under this subsection only after the fiscal body has previously held at least one (1) separate public hearing in which a discussion of the proposed ordinance to impose the town food and beverage tax is the only substantive issue on the agenda for the public hearing.

**(b)** If the town fiscal body adopts an ordinance under subsection (a), the town fiscal body shall immediately send a certified copy of the ordinance to the department of state revenue.

**(c)** If the town fiscal body adopts an ordinance under subsection (a), the town food and beverage tax applies to transactions that occur after the later of the following:

- (1) The day specified in the ordinance.
- (2) The last day of the month that succeeds the month in which the ordinance is adopted.

**Sec. 4. (a)** Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to a transaction in which





food or beverage is furnished, prepared, or served:

- (1) for consumption at a location or on equipment provided by a retail merchant;
- (2) in the town; and
- (3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) food sold in a heated state or heated by a retail merchant;
- (3) made of two (2) or more food ingredients, mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or
- (4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or package used to transport the food).

(c) The town food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

**Sec. 5. The town food and beverage tax rate:**

- (1) must be imposed in an increment of twenty-five hundredths percent (0.25%); and
- (2) may not exceed one percent (1%);

of the gross retail income received by the merchant from the food or beverage transaction described in section 4 of this chapter. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5 or IC 6-9-35.

**Sec. 6. A tax imposed under this chapter is imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed with the payment of the tax imposed under this chapter may be made on a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.**



**Sec. 7.** The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the town fiscal officer upon warrants issued by the auditor of state.

**Sec. 8. (a)** If a tax is imposed under section 3 of this chapter by the town, the town fiscal officer shall establish a food and beverage tax receipts fund.

**(b)** The town fiscal officer shall deposit in the fund all amounts received under this chapter.

**(c)** Money earned from the investment of money in the fund becomes a part of the fund.

**Sec. 9.** Money in the food and beverage tax receipts fund must be used by the town only for the following purposes:

**(1)** Parks, trails, and sidewalk, street, and parking improvements to support tourism in the town.

**(2)** For economic development purposes, including the pledge of money under IC 5-1-14-4 for bonds, leases, or other obligations for economic development purposes.

Revenue derived from the imposition of a tax under this chapter may be treated by the town as additional revenue for the purpose of fixing its budget for the budget year during which the revenues are to be distributed to the town.

**Sec. 10.** With respect to obligations for which a pledge has been made under section 9 of this chapter, the general assembly covenants with the holders of the obligations that this chapter will not be repealed or amended in a manner that will adversely affect the imposition or collection of the tax imposed under this chapter if the payment of any of the obligations is outstanding.

SECTION 14. IC 6-9-51 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 51. Greenwood Food and Beverage Tax**

**Sec. 1.** This chapter applies to the city of Greenwood.

**Sec. 2.** The definitions in IC 6-9-12-1 apply throughout this chapter.

**Sec. 3. (a)** The fiscal body of the city may adopt an ordinance to impose an excise tax, known as the city food and beverage tax, on transactions described in section 4 of this chapter. The fiscal body of the city may adopt an ordinance under this subsection only after the fiscal body has previously held at least one (1) separate public hearing in which a discussion of the proposed ordinance to impose the city food and beverage tax is the only substantive issue on the agenda for that public hearing.



(b) If the city fiscal body adopts an ordinance under subsection (a), the city fiscal body shall immediately send a certified copy of the ordinance to the department of state revenue.

(c) If the city fiscal body adopts an ordinance under subsection (a), the city food and beverage tax applies to transactions that occur after the later of the following:

- (1) The day specified in the ordinance.
- (2) The first day of the month following sixty (60) days after the date on which the ordinance is adopted.

Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to a transaction in which a food or beverage is furnished, prepared, or served:

- (1) for consumption at a location or on equipment provided by a retail merchant;
- (2) in the city; and
- (3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) food sold in a heated state or heated by a retail merchant;
- (3) made of two (2) or more food ingredients, mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or
- (4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or package used to transport the food).

(c) The city food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 5. The city food and beverage tax rate:

- (1) must be imposed in an increment of twenty-five hundredths percent (0.25%); and
  - (2) may not exceed one percent (1%);
- of the gross retail income received by the merchant from the food



or beverage transaction described in section 4 of this chapter. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

**Sec. 6.** A tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed with the payment of the tax imposed under this chapter may be made on a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

**Sec. 7.** The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the city fiscal officer upon warrants issued by the auditor of state.

**Sec. 8. (a)** If a tax is imposed under section 3 of this chapter by the city, the city fiscal officer shall establish a food and beverage tax receipts fund.

**(b)** The city fiscal officer shall deposit in the fund all amounts received under this chapter.

**(c)** Money earned from the investment of money in the fund becomes a part of the fund.

**Sec. 9.** Money in the food and beverage tax receipts fund must be used by the city for one (1) or more of the following purposes:

**(1)** To reduce the city's property tax levy for a particular year at the discretion of the city, but this use does not reduce the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5 for the city.

**(2)** For economic development purposes, including the pledge of money under IC 5-1-14-4 for bonds, leases, or other obligations for economic development purposes.

**(3)** Construction, renovation, improvement, equipping, or maintenance of city capital improvements.

**(4)** Parks and recreation.

**(5)** The pledge of money under IC 5-1-14-4 for bonds, leases, or other obligations incurred for a purpose described in subdivisions (3) through (4).

Revenue derived from the imposition of a tax under this chapter may be treated by the city as additional revenue for the purpose of fixing its budget for the budget year during which the revenues are to be distributed to the city.

**Sec. 10.** With respect to obligations for which a pledge has been made under section 9 of this chapter, the general assembly



covenants with the holders of the obligations that this chapter will not be repealed or amended in a manner that will adversely affect the imposition or collection of the tax imposed under this chapter if the payment of any of the obligations is outstanding.

SECTION 15. IC 6-9-52 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 52. Whitestown Food and Beverage Tax**

**Sec. 1. This chapter applies to the town of Whitestown.**

**Sec. 2. The definitions in IC 6-9-12-1 apply throughout this chapter.**

**Sec. 3. (a) The fiscal body of the town may adopt an ordinance to impose an excise tax, known as the town food and beverage tax, on transactions described in section 4 of this chapter. The fiscal body of the town may adopt an ordinance under this subsection only after the fiscal body has previously held at least one (1) separate public hearing in which a discussion of the proposed ordinance to impose the town food and beverage tax is the only substantive issue on the agenda for that public hearing.**

**(b) If the town fiscal body adopts an ordinance under subsection (a), the town fiscal body shall immediately send a certified copy of the ordinance to the department of state revenue.**

**(c) If the town fiscal body adopts an ordinance under subsection (a), the town food and beverage tax applies to transactions that occur after the later of the following:**

- (1) The day specified in the ordinance.**
- (2) The first day of the month following sixty (60) days after the date on which the ordinance is adopted.**

**Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to a transaction in which a food or beverage is furnished, prepared, or served:**

- (1) for consumption at a location or on equipment provided by a retail merchant;**
- (2) in the town; and**
- (3) by a retail merchant for consideration.**

**(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:**

- (1) served by a retail merchant off the merchant's premises;**
- (2) food sold in a heated state or heated by a retail merchant;**
- (3) made of two (2) or more food ingredients, mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the**



seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or

(4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or package used to transport the food).

(c) The town food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

**Sec. 5. The town food and beverage tax rate:**

(1) must be imposed in an increment of twenty-five hundredths percent (0.25%); and

(2) may not exceed one percent (1%);

of the gross retail income received by the merchant from the food or beverage transaction described in section 4 of this chapter. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

**Sec. 6. A tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed with the payment of the tax imposed under this chapter may be made on a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.**

**Sec. 7. The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the town fiscal officer upon warrants issued by the auditor of state.**

**Sec. 8. (a) If a tax is imposed under section 3 of this chapter by the town, the town fiscal officer shall establish a food and beverage tax receipts fund.**

(b) The town fiscal officer shall deposit in the fund all amounts received under this chapter.

(c) Money earned from the investment of money in the fund becomes a part of the fund.

**Sec. 9. Money in the food and beverage tax receipts fund must be used by the town for one (1) or more of the following purposes:**



- (1) To reduce the town's property tax levy for a particular year at the discretion of the town, but this use does not reduce the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5 for the town.
- (2) For economic development purposes, including the pledge of money under IC 5-1-14-4 for bonds, leases, or other obligations for economic development purposes.
- (3) Construction, renovation, improvement, equipping, or maintenance of town capital improvements.
- (4) Parks and recreation.
- (5) The pledge of money under IC 5-1-14-4 for bonds, leases, or other obligations incurred for a purpose described in subdivisions (3) through (4).

Revenue derived from the imposition of a tax under this chapter may be treated by the town as additional revenue for the purpose of fixing its budget for the budget year during which the revenues are to be distributed to the town.

**Sec. 10. With respect to obligations for which a pledge has been made under section 9 of this chapter, the general assembly covenants with the holders of the obligations that this chapter will not be repealed or amended in a manner that will adversely affect the imposition or collection of the tax imposed under this chapter if the payment of any of the obligations is outstanding."**

Page 3, after line 42, begin a new paragraph and insert:  
"SECTION 17. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1402 as introduced.)

HUSTON

Committee Vote: yeas 22, nays 0.

